




## Report to the Auburn City Council

Action Item

Agenda Item No. 11

City Manager's Approval

**To:** Mayor and City Council Members  
**From:** Joseph Scarbrough, Assistant Planner Intern   
Wilfred Wong, Community Development Director  
**Date:** July 27, 2009  
**Subject:** A Public Hearing to Consider the City's Draft Tattoo Shop Ordinance - (Admin File 301.3(s))

### The Issue

Should the City Council introduce and hold a first reading of the Tattoo Shop Ordinance, which adds Sections 159.001, 159.034 & 159.521 – 159.523 *et seq.* of the Auburn Municipal Code establishing standards and criteria, for the establishment of Tattoo Shops?

### Conclusions and Recommendation

On June 16, 2009, the Planning Commission held a public hearing to receive testimony and consider the draft Tattoo Shop Ordinance (**Attachment 1**). After a brief discussion by the Planning Commission, the Planning Commission unanimously recommends that the Auburn City Council take the following actions:

- A. By Motion, Adopt a Statutory and categorical Exemption prepared for the Tattoo Shop Ordinance as the appropriate level of environmental review in accordance with Section 15061 (b)(3) of the State California Environmental Quality Act (CEQA) Guidelines (it can be see with certainty that the project will not have a significant impact on the environment) and Guidelines Sections 15305 (minor alterations of land use limitations) and 15308 (actions by regulatory agencies for the protection of the environment);
- B. By Motion, Adopt the following "Findings of Fact" for approval of the Tattoo Shop Ordinance:
  - 1. The Tattoo Shop Ordinance implements standards and criteria for Tattoo Shops;
  - 2. The Tattoo Shop Ordinance is consistent with the General Plan; and,
  - 3. The Tattoo Shop Ordinance is the minimum necessary to protect the public interest, health, safety and general welfare.
- C. By Motion, introduce and hold a first reading, by title only, of the Tattoo Shop Ordinance, adding Sections 159.001, 159.034 & 159.521 – 159.523 *et seq.* of the Auburn Municipal Code by establishing standards and criteria for Tattoo Shops (**Exhibit A**).

**History/Background**

In March 2009, the Community Development Department received a request from the Auburn Police Department to initiate a zoning ordinance amendment regarding requirements and performance standards for Tattoo Shops. In researching this type of business activity, staff concluded that many jurisdictions within the region have imposed regulations for Tattoo Shops. Jurisdictions vary from allowing the use within commercial districts as a permitted use, (under the definition of a "personal service," such as a beauty salon or barber shop, with no hearings or special regulations) to requiring a use permit, which can have specific requirements or more general, performance standards.

Since the City of Auburn does not have performance standards for Tattoo Shops, and after surveying of other jurisdictions, staff determined that an ordinance amendment may be appropriate. Accordingly the Community Development Department drafted a Tattoo Shop Ordinance for Planning Commission review and recommendation to the City Council. The draft Tattoo Ordinance is attached herewith as **Exhibit A**.

In order to provide specific regulations for Tattoo Shops, staff proposes – and the Planning Commission recommends – adoption of an ordinance to amend the City's zoning ordinance to require Tattoo Shops to obtain approval of a Use Permit by the Planning Commission in the Central Business (C-2) and Regional Commercial (C-3) Districts. Approval of a Use Permit by the Planning Commission shall require compliance with performance standards. The performance standards proposed by the City with this ordinance amendment are enumerated in §159.523 of **Exhibit A**. Key features of the draft Tattoo ordinance include:

- The approval process is specifically identified as requiring a Use Permit (*i.e.*, approval by the Planning Commission);
- Tattoo Shops shall be prohibited in all zone district classifications within the city, except the Central Business (C-2) District and Regional Commercial (C-3) District with approval of a Use Permit;
- Tattoo Shops shall be located at least 250 feet from any residential zone;
- A Tattoo Shop shall be located at least 1,000 feet from any public or private school, park, church, religious organization and establishments principally used by minors;
- Approval of a Use Permit may include conditions limiting the permissible hours of operation of Tattoo Shops.

On June 16, 2009 the draft Tattoo Shop Ordinance was presented to the Planning Commission for a recommendation to the City Council. After hearing the staff report and comments from the public, the Planning Commission unanimously recommended that the City Council adopt the Tattoo Shop Ordinance as presented (**Attachment 2**).

**Alternatives Available to Council; Implications of Alternatives**

- A. Hold the first reading of the Tattoo Shop Ordinance.
- B. Amend the draft Tattoo Shop Ordinance.
- C. Continue the public hearing and direct staff to provide additional information and/or address questions.

**Fiscal Impacts**

Budgeted costs were incurred in preparing the Draft Ordinance in consultation with the Auburn Police Department and City Attorney. Subsequent applicants will incur the cost of processing a Use Permit. As permit fees do not fully recover all the City's cost to process land use applications, there will be some impact on Community Development Department staffing, depending on the number of permits sought, but staff does not view this impact as significant and expects to be able to absorb the additional workload with existing staffing.

**Environmental Determination**

In accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is not possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Moreover, staff recommends the Council also find the project to be categorically exempt under State CEQA Guidelines Sections 15305 (minor alterations in land use limitations) and 15308 (actions by regulatory agencies for the protection of the environment).

Accordingly, staff recommends the Council determine the project to be exempt from further CEQA review.

**Additional Information**

Please see the following attachments for more details:

**ATTACHMENTS –**

1. Draft Minutes of June 16, 2009 Planning Commission Meeting
2. Planning Commission Staff Report dated June 16, 2009 with Attachments and Exhibits

**EXHIBIT –**

- A. Draft Tattoo Shop Ordinance



# ATTACHMENTS

**DRAFT**

**MINUTES OF THE  
AUBURN CITY PLANNING COMMISSION MEETING  
June 16, 2009**

The regular session of the Auburn City Planning Commission was called to order on June 16, 2009 at 6:50 p.m. by Vice Chair Spokely in the Council Chambers, 1225 Lincoln Way, Auburn, California.

**COMMISSIONERS PRESENT:** Snyder, Spokely, Vitas

**COMMISSIONERS ABSENT:** Young, Worthington

**STAFF PRESENT:** Wilfred Wong, Community Development  
Director; Joseph Scarbrough, Ass. Planner  
Intern; Linda Bauer, Administrative Assistant

**ITEM I: CALL TO ORDER**

**ITEM II: APPROVAL OF MINUTES**

The minutes of the April 21, 2009 and May 19, 2009 meetings were approved as submitted.

**ITEM III: PUBLIC COMMENT**

None.

**III. PUBLIC HEARING ITEMS**

- A. TATTOO SHOP ZONING ORDINANCE AMENDMENT.** The City of Auburn proposes to amend the City of Auburn Municipal Code to provide regulations and performance standards for Tattoo Shops within the City of Auburn.

Planner Scarbrough presented the staff report. He explained that in 2004, the Planning Commission had concluded that Tattoo Shops may be conditionally permitted in the (C-1) Neighborhood Commercial and (OB) Office Building zone districts and were principally permitted in the (C-2) Central Business and (C-3) Regional commercial zone districts.

Due to recent business license requests the Auburn Police Department has requested the current ordinance be amended regarding Tattoo Shops.

Staff recommends adoption of the proposed ordinance amendment.

Vice Chair Spokely had questions on where Tattoo Shops would be allowed.

Planner Scarbrough explained that Tattoo Shops would be prohibited in all zone districts except for the C-2 and C-3 zones, where a use permit would be required.

There was discussion on the location of OB, C-1, C-2 and C-3 zones in the City. The Commission also discussed the cost of a Use Permit.

The public hearing was opened.

Joey Sprawka, 135 Almond Street, Auburn, CA. and a business partner are tentatively looking at opening a tattoo shop at 885 Lincoln Way. They have submitted an application to the Planning Dept.

He was concerned because there are no distinct requirements for tattoo shops in California. Tattoo shops are primarily self regulated. He is open to regulation in the city related to tattoo shops. His intention is to open a high-end shop.

Commissioner Spokely asked if the amended ordinance would affect his business as far as the prevention of clustering. Director Wong said it would not affect Joey Sprawka's business because his business would be open before the amended ordinance took affect.

Commissioner Vitas asked what self policing procedures are in place in Mr. Sprawka's organization. People in his organization go through a certified apprenticeship program including blood born pathogens or are medic certified. He is a certified master tattoo artist and master body piercing artist.

Sara Sanders Jones, 836 Lincoln Way, Auburn, owner of the Club Car Restaurant & Bar addressed the commission. She said through conversation with Joey Sprawka, she believes he runs a professional business with strict regulations. She approves of the tattoo shop.

Commissioner Spokely closed the public hearing.

Commissioner Vitas **MOVED** to adopt Resolution 09-9 to recommend the City Council adopt a tattoo ordinance as presented.

Commissioner Spokely **SECONDED** the motion.

AYES: Snyder, Vitas, Spokely

NOES:

ABSENT: Young, Worthington

ABSTAIN:

The motion was approved.

**IV. COMMUNITY DEVELOPMENT DEPARTMENT FOLLOW-UP REPORTS**

- A. City Council Meetings  
Council plans to adopt the budget
- B. Future Planning Commission Meetings  
July 21<sup>st</sup>, Possibly July 7<sup>th</sup>
- C. Reports  
None

**DRAFT**

**V. PLANNING COMMISSION REPORTS**

None

**VI. FUTURE PLANNING COMMISSION AGENDA ITEMS**

None

**VII. ADJOURNMENT**

The meeting was adjourned at 7:20 p.m.

Respectfully submitted

Linda Bauer, Administrative Assistant



## **CITY OF AUBURN**

**Planning Commission – Staff Report**

**Meeting Date: June 16, 2009**

**Prepared by: Joseph Scarbrough, Planning Intern**

**ATTACHMENT**

**ITEM NO.  
IV-A**

### **ITEM IV-A: TATTOO SHOP ZONING ORDINANCE AMENDMENT**

**REQUEST:** The City of Auburn proposes to amend sections of the Auburn Zoning Ordinance relating to Tattoo Shops. The Tattoo Shop ordinance would amend The City of Auburn Municipal Code by establishing standards and criteria for the establishment of Tattoo Shops.

#### **RECOMMENDED MOTION (APPROVAL):**

That the Planning Commission take the following action:

- A. Move to adopt Planning Commission Resolution 09-9 recommending that the Auburn City Council adopt the Tattoo Shop Ordinance as presented, or as amended by the Planning Commission (**Exhibit A**).

#### **ALTERNATIVE MOTION (DENIAL):**

- B. Move to direct staff to amend Resolution 09-9 for denial of the Tattoo Shop Ordinance, based upon substantial evidence presented at the public hearing, and provide it for Planning Commission consideration at the next available Planning Commission hearing for recommendation to the City Council.

#### **BACKGROUND:**

On December 2004, the City of Auburn Planning Commission rendered an interpretation regarding Tattoo Shops in the Commercial and Office Building Zone districts. The interpretation was requested by staff since Tattoo Shops were not listed as either permitted or conditionally permitted in any of the City's commercial or office building zone districts.

The City of Auburn Planning Commission concluded that Tattoo Shops may be conditionally permitted in the Neighborhood Commercial (C-1) and Office Building (OB) zone districts and were principally permitted in the Central Business (C-2) and Regional Commercial (C-3) zone districts (**Attachments 1 & 2**).

In March, 2009, the Community Development Department received a request from the Auburn Police Department to initiate a zoning ordinance amendment regarding requirements and performance standards for Tattoo Shops. In researching this type of business activity, staff has found that many jurisdictions within the state are starting to impose regulations on this type of business. Staff further surveyed local jurisdictions and prepared a summary of regulations on these businesses (**Attachment 3**). Jurisdictions vary from allowing the use within commercial



districts as a permitted use, (under the definition of a “personal service”, such as a beauty salon or barber shop, with no hearings or special regulations) to requiring a use permit, which can have specific performance requirements or performance standards. The survey conducted of local jurisdiction’s zoning ordinance regulations is attached herewith as **Exhibit 2**.

Since performance standards are not listed in the City of Auburn zoning ordinance, and consequential surveying of other jurisdictions has determined that an ordinance amendment may be an appropriate action. The Community Development Department drafted Tattoo Shop Ordinance for recommendation to the City Council. The draft Tattoo Ordinance is attached herewith as **Exhibit B**.

In order to provide specific regulations for Tattoo Shops, staff is proposing to amend the City’s zoning ordinance to require Tattoo Shops to obtain approval of a Use Permit by the Planning Commission in the Central Business (C-2) and Regional Commercial (C-3) Districts. Approval of a Use Permit by the Planning Commission shall require compliance with performance standards. The performance standards proposed by the City with this ordinance amendment are enumerated in §159.523 of **Exhibit B**. Specifically, the standards detail the locations allowed for tattoo shops, proximities to other specific uses, and the approval process. Key features of the draft Tattoo ordinance include:

- The approval process is specifically identified as requiring a Use Permit (i.e. approval by Planning Commission);
- Tattoo Shops shall be prohibited in all zone district classifications within the city, except the Central Business (C-2) District and Regional Commercial (C-3) District with a use permit;
- Tattoo Shops are limited to being 250 feet from any residential zone;
- A Tattoo Shop shall be separated from another Tattoo Shop by a distance of 1,000 feet;
- Tattoo Shops shall be located at least 1,000 feet from any public or private school, parks, churches, religious organizations and establishments principally used by minors;
- Use permits may include conditions limiting the permissible hours of operation of Tattoo Shops.

The Planning Commission is a recommending body for this ordinance amendment. The Commission’s comments and recommendations will be forwarded to the Auburn City Council for their review and consideration.

#### **ENVIRONMENTAL DETERMINATION:**

The Auburn Community Development Department reviewed this project for compliance with the California Environmental Quality Act (CEQA) and found it to be exempt from CEQA per §15061(3) which states: where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**ATTACHMENTS:**

1. Staff Report dated December 7, 2004 with Attachments & Exhibits
2. Planning Commission Minutes dated December 7, 2004
3. Tattoo Shop Survey of Local Jurisdictions

**EXHIBITS:**

- A. Resolution 09-9
- B. Draft Tattoo Shop Ordinance



# ATTACHMENTS



## CITY OF AUBURN

Planning Commission – Staff Report  
Meeting Date: December 7, 2004

Prepared by: Reg Murray, Associate Planner

ITEM NO.  
VII-A

### ITEM VII-A: Planning Commission Use Determination – Tattoo Shops in Commercial and Office Building Zone Districts

#### RECOMMENDED MOTION:

Move to find that tattoo shops shall be conditionally permitted in the Neighborhood Commercial (C-1) zone and principally permitted in the Central Business (C-2) zone district, the Regional Commercial (C-3) zone district, and the Office Building (OB) zone district (or as modified by the Planning Commission).

#### ALTERNATIVE MOTION (DENIAL):

Move to find that tattoo shops are not permitted in the Neighborhood Commercial (C-1), Central Business (C-2), Regional Commercial (C-3), or Office Building (OB) zone districts (or as modified by the Planning Commission).

#### BACKGROUND/ANALYSIS:

Auburn Municipal Code Section 9-4.301.(b) states that one of the powers of the Planning Commission is to interpret the provisions of this chapter (Zoning) in such a way as to carry out their intent and purpose in defining the standards, definitions, and permitted uses set forth in the chapter.

Staff recently received an inquiry to locate a tattoo shop in the Central Business District (i.e. the C-2 zone). After researching the Auburn zoning ordinance, tattoo shops are not listed as permitted or conditionally permitted uses in any of the City's commercial or office building zone districts. Since tattoo shops are not specifically listed, staff is forwarding the request to the Planning Commission for guidance.

A summary of the zoning and permit requirements for tattoo shops in other local jurisdictions is provided with Attachment 1. Tattoo shops are typically considered a "personal service" by other jurisdictions and as such are permitted or conditionally permitted in most commercial zones, including office districts. Based on this survey, staff believes it would be appropriate to permit tattoo shops in the City's commercial and office building zone districts as follows:

- Neighborhood Commercial (C-1) – Require approval of a Conditional Use Permit.
- Central Business District (C-2) – Permitted with background check by the Police Department and approval by the Placer County Health Department.
- Regional Commercial (C-3) – Permitted with background check by the Police Department and approval by the Placer County Health Department.
- Office Building (OB) – Require approval of a Conditional Use Permit.

#### Attachments:

1. Zoning Survey
2. Use List in Commercial and OB Zones

## TATTOO SHOPS ZONING SURVEY

JURISDICTION	PERMITTED BY RIGHT	PERMITTED WITH USE PERMIT	RESTRICTIONS
Citrus Heights	General Commercial zone	Shopping Center	
Davis	Core Commercial district (personal service)		
Fairfield	Commercial districts (personal service)	Commercial Service & Commercial Mixed Districts	
Folsom		C-2 & C-3 zones	
Lincoln		Yes	Not within 400' of church/school; background check required; Health Dept clearance required
Loomis		MUP in General Commercial	Not adjacent to residential zone
Placer County	Commercial & industrial zones (zoning clearance only)	CUP in Commercial Planned Development; MUP in Motel, Office/Professional, & Airport	
Rocklin	Commercial districts (personal services)		
Roseville	All Commercial districts (includes office)		Health Dept clearance/permit
Sacramento City			City health officer permit
Sacramento County	General Commercial (personal services)	Limited Commercial	

**Sec. 9-4.505. Neighborhood Commercial District  
(C-1).**

(a) The following uses shall be permitted in the Neighborhood Commercial (C-1) District when conducted within a building or other applicable area:

(1) *Commercial*

- (i) Amusement centers;
- (ii) Apparel shops;
- (iii) Art goods stores;
- (iv) Automobile parking lots;
- (v) Bakeries;
- (vi) Book stores;
- (vii) Camera shops;
- (viii) Candy stores;
- (ix) Delicatessens;
- (x) Drugstores;
- (xi) Florist shops;
- (xii) Fountains;
- (xiii) Furniture stores;
- (xiv) Gift shops;

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(xv) Glass stores;  
(xvi) Hardware stores;  
(xvii) Hobby shops;  
(xviii) Ice cream shops;  
(xix) Liquor stores;  
(xx) Music stores;  
(xxi) Newsstands and newspaper and related printing  
and publishing;

(xxii) Paint and wallpaper stores;  
(xxiii) Pet shops;  
(xxiv) Radio and television sales stores;  
(xxv) Restaurants;  
(xxvi) Smoke shops;  
(xxvii) Toy stores; and  
(xxviii) Variety stores;

(2) *Food.*

(i) Bakeries employing not more than three (3) persons full or part-time, excluding sales personnel;  
(ii) Cafes, restaurants, and catering shops;  
(iii) Delicatessens and specialized food stores;  
(iv) Grocery, meat, fish, poultry, fruit, and vegetable  
stores; and

(v) Health food stores; and

(3) *Services.*

(i) Answering services;  
(ii) Banks;  
(iii) Barber shops;  
(iv) Beauty parlors;  
(v) Building materials stores (retail);  
(vi) Business offices;  
(vii) Commercial schools (secretarial, dance, business, and the like);  
(viii) Dance halls;  
(ix) Laundromats;  
(x) Laundry and cleaning agencies;  
(xi) Medical and dental offices;  
(xii) Pressing shops;  
(xiii) Photographers;  
(xiv) Professional offices;  
(xv) Real estate and insurance offices;  
(xvi) Repair shops for shoes, radios, television sets,  
and domestic appliances;

- (xvii) Tailor shops;
- (xviii) Taxicab stands; and
- (xix) Utility offices.

(b) The following uses shall be permitted in the Neighborhood Commercial (C-1) District subject to the approval of a use permit:

- (1) Apartments and rental housing;
- (2) Bowling alleys;
- (3) Drive-in dairy products;
- (4) Drive-in restaurants;
- (5) Gasoline service stations;
- (6) Living quarters in connection with an established commercial use;
- (7) Nurseries and greenhouses;
- (8) Taverns;
- (9) Theaters;
- (10) Churches and/or church-related uses;
- (11) Outdoor vending and/or temporary sales of any product for private profit not conducted within a building (excepting those uses noted in subsection (c) of this section); and
- (12) Outdoor seating with thirteen (13) or more seats in association with an existing eating establishment.

(c) The following uses shall be permitted in the Neighborhood Commercial (C-1) District subject to the approval of the appropriate special permit as set forth in Article 18 of this chapter:

(1) Temporary outdoor sales in conjunction with special events may be authorized by the Community Development Director without necessity of a use permit.

(2) Limited outdoor seating, up to a maximum of twelve (12) seats, in association with an existing eating establishment. (§ 3.00, Ord. 558, as amended by Ord. 718, eff. January 11, 1978, Ord. 781, eff. April 13, 1983, Ord. 794, eff. January 11, 1984, Ord. 803, eff. November 7, 1984, Ord. 87-1, eff. February 11, 1987, § 2, Ord. 87-3, eff. May 26, 1987, § 2, Ord. 87-7, eff. October 12, 1987, § 2, Ord. 87-11, January 13, 1988, § 1, Ord. 91-3, eff. March 27, 1991, and § 1, Ord. 92-16, eff. August 26, 1992)

#### Sec. 9-4.506. Central Business District (C-2).

(a) The following uses shall be permitted in the Central Business (C-2) District:

(1) All uses permitted in the C-1 District:

(b) The following uses shall be permitted in the Central Business (C-2) District when conducted within a building or other applicable area:



- (1) Antique stores;
- (2) Apartments and rental housing;
- (3) Apparel shops;
- (4) Appliance stores;
- (5) Art goods stores;
- (6) Automobile dealerships;
- (7) Automobile parts and accessory stores;
- (8) Automobile sales, services, and lots;
- (9) Automobile service agencies;
- (10) Automobile upholstery shops;
- (11) Bank and lending agencies;
- (12) Barber shops;
- (13) Beauty shops;
- (14) Bike sales and repair shops;
- (15) Boat sales and repair shops;
- (16) Book stores;
- (17) Building materials stores (retail);
- (18) Bus terminals;
- (19) Camera and photographic supply stores;
- (20) Candy stores;
- (21) China and glassware shops;

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- (22) Cigars and tobacco shops;
- (23) Communications equipment buildings;
- (24) Department stores;
- (25) Drapery shops;
- (26) Dressmaking stores;
- (27) Drugstores;
- (28) Employment agencies;
- (29) Florist shops;
- (30) Fountains;
- (31) Fur shops;
- (32) Furniture stores;
- (33) Garden supply stores;
- (34) Gift shops;
- (35) Hardware and homeware stores;
- (36) Hat shops;
- (37) Hobby and toy shops;
- (38) Hotels and motels;
- (39) Ice cream shops;
- (40) Import shops;
- (41) Interior decorating shops;
- (42) Jewelry shops;
- (43) Lamp shops;
- (44) Laundry and cleaning agencies;
- (45) Lingerie and hosiery stores;
- (46) Liquor stores;
- (47) Living quarters in connection with an established commercial use;
- (48) Luggage stores;
- (49) Millinery shops;
- (50) Music and records stores;
- (51) Offices, such as realtors, insurance, photographers, accountants, attorneys, advertisers, medical, dental, and other professions;
- (52) Paint, glass, and wallpaper sales stores;
- (53) Power tools stores;
- (54) Radio, television, and retail electronic supplies stores;
- (55) Restaurants;
- (56) Rug stores;
- (57) Savings and loan associations;
- (58) Sewing shops;
- (59) Shoe stores;

- (60) Sporting goods stores;
- (61) Stationery and office supplies stores;
- (62) Tailor shops;
- (63) Taverns;
- (64) Theaters;
- (65) Tire sales, repair, and exchange stores (not including recapping);

- (66) Title companies;
- (67) Toy stores;
- (68) Variety stores; and
- (69) Yardage and yarn shops;

(c) The following uses shall be permitted in the Central Business (C-2) District subject to the approval of a use permit:

- (1) Automobile repair shops (not including spray painting or body work);
- (2) Automobile service stations;
- (3) Cleaning plants;
- (4) Creameries;
- (5) Electrical repair shops;
- (6) Laundries;
- (7) Motorcycle sales shops;
- (8) Plumbing shops;
- (9) Printing shops;
- (10) Sheet metal shops and tire recapping with tire sales;
- (11) Animal hospitals and clinics; and
- (12) Use of any housing rental units, apartment or other dwelling units or buildings for the ambulatory aged, mentally impaired, developmentally disabled, congregate living health care, and drug or social rehabilitation, including parole-related facilities or residences.

(§ 3.00, Ord. 558, as amended by §§ 5 and 6, Ord. 585, § 1, Ord. 632, Ord. 87-1, eff. February 11, 1987, § 2, Ord. 87-3, eff. May 26, 1987, § 2, Ord. 87-7, eff. October 12, 1987, and § 2, Ord. 87-11, January 13, 1988)

#### Sec. 9-4.507. Regional Commercial District (C-3).

The following uses shall be permitted in the Regional Commercial (C-3) District:

- (a) All uses permitted in the C-1 and C-2 Districts.
- (§ 3.00, Ord. 558)

The public hearing was reopened.

Ralph Laird, applicant, requested clarification of the conditions imposed on this project. He was advised of the conditions and he accepted them.

The public hearing was again closed.

AYES: McCord, Merz, Powers, White, Chrm. Smith  
NOES: None  
ABSTAIN: None  
ABSENT: None

The motion was approved.

The Chairman announced the 10-day appeal period.

**ITEM VII:**

**COMMISSION BUSINESS**

**A. Planning Commission Use Determination – Tattoo Shops in Commercial and Office Building Zone Districts.**

Reg Murray gave the staff report. He advised that staff recently received an inquiry about locating a tattoo shop in the Central Business District (C-2 zone). After researching the Auburn zoning ordinance, tattoo shops are not listed as permitted or conditionally permitted uses in any of the City's commercial or office building zone districts. As such, staff is forwarding the request to the Planning Commission for guidance. Staff surveyed permit requirements in other local jurisdictions and found that tattoo shops are typically considered a "personal service" and are permitted or conditionally permitted in most commercial zones, including office districts. Based on this survey, staff believes it would be appropriate to permit tattoo shops in commercial and office building zone districts with some qualifications and conditions, which he reviewed for the Commission.

The public hearing was opened.

Keith Hixon, applicant, gave details of his tattoo business proposal and exactly what it entailed.

The public hearing was closed.

The Commissioners discussed current zoning and the possibility of distance requirements for certain businesses, i.e. specific distances from schools, churches, etc.

Director Wong advised the Commission of some of the problems that can be encountered with distance requirements in a small town, you can effectively eliminate the possibility of certain businesses locating in the City.

Comm. Merz agreed on the difficulties that would be encountered with distance requirements in Auburn. He also noted that even if a business was allowed without a specific health department approval, that authority would still have the ability to shut down a business that was considered unhealthy.

Comm. White noted her thoughts on the subject of a possible zoning change: Will this proposal affect sales revenue in the City; does the proposal affect the environment; does it preserve the history of our town? These are the three things that she felt should be looked at when considering a zoning change.

Director Wong advised that sales tax should not be a consideration in allowing uses as many uses provide no sales tax. The object should be to determine when a proposal is an appropriate use for a specified zone.

The public hearing was reopened.

Keith Hixon returned to the lectern, he advised that he did not charge sales tax for his service.

The public hearing was again closed.

Comm. Powers **MOVED** to find that tattoo shops shall be conditionally permitted in the Neighborhood Commercial (C-1 zone and principally permitted in the Central Business (C-2) zone district, the Regional Commercial (C-3) zone district, and conditionally permitted in the Office Building (OB) zone districts.

Comm. Merz **SECONDED**.

AYES:	McCord, Merz, Powers, White, Chrm. Smith
NOES:	None
ABSTAIN:	None
ABSENT:	None

The motion was approved.

The Chairman announced the 10-day appeal period.

**ITEM VIII:**

**COMMUNITY DEVELOPMENT DEPARTMENT  
FOLLOW-UP REPORTS**

**A. City Council Meetings**

Director Wong reviewed recent City Council meetings. He also advised the Commissioners that in the future, the design review body for the historic districts will consist of the Planning Commission plus four members of the community as appointed by the City Council.

**B. Future Planning Commission meetings.**

Director Wong discussed future meetings.

**C. Reports**

None.

**ITEM IX:**

**PLANNING COMMISSION REPORTS**

None.

**ITEM X:**

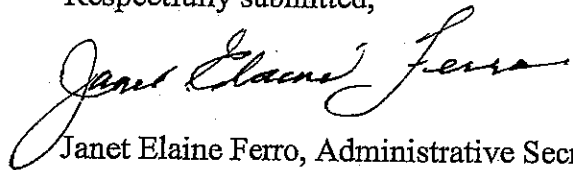
**FUTURE PLANNING COMMISSIONN AGENDA ITEMS**

**ITEM XI:**

**ADJOURNMENT**

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,



Janet Elaine Ferro, Administrative Secretary

## Tattoo Draft

The city of auburn has recently encountered multiple applications for tattoo establishments. This has become a concern of the police department which has requested the research of other jurisdictions' regulations. The research was focused around cities within the general area of Auburn, attempting to discover similarities throughout. In general the findings discovered that the majority of jurisdictions have limited to no restrictions upon tattoo establishments. The cities surveyed include:

1. Placerville –
  - a. No Use Permit Required, is a Permitted Use.
  - b. No Performance Standards Required
2. Roseville –
  - a. No Use Permit Required
  - b. Considered a "Personal Service" (Permitted in Commercial Zones)
  - c. No Performance Standards Required
3. Rocklin -
  - a. No Use Permit Required
  - b. Considered a "Personal Service" (Permitted in the C-1, C-2, C-4 Zones)
  - c. No Performance Standards Required
4. Folsom –
  - a. Conditional Use Permit Required
  - b. No Performance Standards Required
  - c. Permitted in C-2 and C-3 Zones with Conditional Use Permit

5. Grass Valley –

- a. Minor Use Permit Required
- b. Considered Restricted Personal Service
- c. Permitted in the C-3 Zone with Minor Use Permit

6. Lincoln –

- a. Conditional Use Permit Required
- b. Minimum Separation of 400ft from all Residential, Churches, and Schools
- c. Permitted in the Commercial Zones

7. Davis –

- a. No Use Permit Required
- b. No Performance Standards Required
- c. No Specific Language Calling out Tattoo Parlors

8. Placer County –

- a. No Use Permit Required
- b. No Performance Standards
- c. No Specific Language Calling out Tattoo Parlors



# EXHIBITS



## ORDINANCE 09- TATTOO SHOPS

### § 159.001. DEFINITIONS.

In addition to the other definitions used in this title, the following words and phrases shall have the following meanings when used in this chapter unless the context clearly indicates or requires a different meaning:

- (a) **"DEPARTMENT"** shall mean the Community Development Department.
- (b) **"DIRECTOR"** shall mean the Community Development Director.
- (c) **"TATTOO SERVICES"** means the injection of ink or other pigments below the skin using a sharp instrument.
- (d) **"TATTOO SHOPS"** shall mean any business that sells Tattoo Services whether or not it also sells other services and goods.

### §159.034 Central Business Zone District (C-2)

(C) The following uses shall be permitted in the Central Business (C-2) District subject to the approval of a use permit:

(13) Tattoo Shops

### § 159.521 PURPOSE.

- (A) The City finds that Tattoo Shops have potentially negative secondary effects on neighboring properties and the public generally, particularly when several are concentrated in a small area.
- (B) Special regulation of Tattoo Shops is therefore necessary to prevent such effects from contributing to the blighting or downgrading of the surrounding neighborhoods or creating public or private nuisances.
- (C) The primary purpose of the regulations is to prevent the concentration or clustering of Tattoo Shops in any one area and to regulate the operation of Tattoo Shops to prevent negative secondary effects on neighboring properties and the public generally.

### § 159.522 USE PERMIT REQUIRED.

- (A) Notwithstanding any other provision of this code, Tattoo Shops shall be prohibited in all zone district classifications within the City, except in the Central Business (C-2) District and Regional Commercial (C-3) District as provided in this section in which such uses are permitted pursuant to a use permit.

- (B) Applications for use permits shall be heard by the Planning Commission as provided in 159.405 *et seq.*
- (C) The use permit shall establish those conditions found to be reasonably necessary to prevent the concentration or clustering of Tattoo Shops in any one area and to regulate the operation of Tattoo Shops to prevent negative secondary effects on neighboring properties and the public generally:

**§ 159.523 PERFORMANCE STANDARDS.**

The following performance standards shall apply to a Tattoo Shop:

- (A) It shall be unlawful to operate a Tattoo Shop within 1,000 feet of any other Tattoo Shop.
- (B) It shall be unlawful to operate a Tattoo Shop within 250 feet of any residential zone.
- (C) It shall be unlawful to operate a Tattoo Shop within 1,000 feet of any public or private school, park, playground, church, non-commercial establishment operated by a bona fide religious organization or any establishment principally used by minors.
- (D) Any inspecting officer of the City of Auburn may enter and inspect the premises from time to time during regular business hours for compliance with applicable law.
- (E) Any inspecting officer of Placer County's Health Department may enter and inspect the premises from time to time during regular business hours for compliance with County enforced health requirements.
- (F) Use permits may include conditions limiting the permissible hours of operation of Tattoo Shops.
- (G) No Tattoo Shop shall conduct Tattoo Services on any person under eighteen (18) years of age, unless it is performed in the presence of a parent or legal guardian, or accompanied by a notarized authorization from that same parent or legal guardian.
- (H) The permittee shall maintain a file on-site of all notarized minor consent forms, and submit to the City of Auburn Police Department a copy of such form within ten (10) days of receipt.
- (I) No Tattoo Shop shall allow any non-employee to provide Tattoo Services for compensation in or via the Tattoo Shop unless the person providing those Tattoo Services has a City of Auburn business license.

## **ORDINANCE 09- TATTOO SHOPS**

### **§ 159.001. DEFINITIONS.**

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### **§ 159.522 USE PERMIT REQUIRED.**

- (a) Notwithstanding any other provision of this code, Tattoo Shops shall be prohibited in all zone district classifications within the City, except in the Central Business (C-2) District and Regional Commercial (C-3) District as provided in this section in which such uses are permitted pursuant to a use permit.



# *Memorandum*

**City of Auburn  
Community Development Department**

**To:** Planning Commissioners  
**From:** Joseph Scarbrough, Planning Interim   
**Date:** June 16, 2009  
**Subject:** Minor Amendment to the Draft Tattoo Ordinance

Staff received the attached amended version of the Draft Tattoo Ordinance from the City Attorney's Office subsequent to mail out of the Planning Commission packet. The attached amended version includes a minor provision change recommended by the City Attorney's Office. Specifically, Section 159.523 (J) has been added that limits individuals required to register under Cal. Penal Code from providing tattoos on certain areas of the body.

I thank you for your time and consideration in this matter.

## **ORDINANCE 09- TATTOO SHOPS**

### **§ 159.001. DEFINITIONS.**

In addition to the other definitions used in this title, the following words and phrases shall have the following meanings when used in this chapter unless the context clearly indicates or requires a different meaning:

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- (B) Applications for use permits shall be heard by the Planning Commission as provided in 159.405 *et seq.*
- (C) The use permit shall establish those conditions found to be reasonably necessary to prevent the concentration or clustering of Tattoo Shops in any one area and to regulate the operation of Tattoo Shops to prevent negative secondary effects on neighboring properties and the public generally.

**§ 159.523 PERFORMANCE STANDARDS.**

The following performance standards shall apply to a Tattoo Shop:

- (A) It shall be unlawful to operate a Tattoo Shop within 1,000 feet of any other Tattoo Shop.
- (B) It shall be unlawful to operate a Tattoo Shop within 250 feet of any residential zone.
- (C) It shall be unlawful to operate a Tattoo Shop within 1,000 feet of any public or private school, park, playground, church, non-commercial establishment operated by a bona fide religious organization or any establishment principally used by minors.
- (D) Any inspecting officer of the City of Auburn may enter and inspect the premises from time to time during regular business hours for compliance with applicable law.
- (E) Any inspecting officer of Placer County's Health Department may enter and inspect the premises from time to time during regular business hours for compliance with County enforced health requirements.
- (F) Use permits may include conditions limiting the permissible hours of operation of Tattoo Shops.
- (G) No Tattoo Shop shall conduct Tattoo Services on any person under eighteen (18) years of age, unless it is performed in the presence of a parent or legal guardian, or accompanied by a notarized authorization from that same parent or legal guardian.
- (H) The permittee shall maintain a file on-site of all notarized minor consent forms, and submit to the City of Auburn Police Department a copy of such form within ten (10) days of receipt.
- (I) No Tattoo Shop shall allow any non-employee to provide Tattoo Services for compensation in or via the Tattoo Shop unless the person providing those Tattoo Services has a City of Auburn business license.
- (J) No Tattoo Shop shall allow any person that is required to register under California Penal Code 290 to provide Tattoo Services in or via the Tattoo Shop on the following areas of the human body:

- (1) Genitals or the pubic region;
- (2) Buttocks;
- (3) Female breasts below a point immediately above the top of the areola.



**PLANNING COMMISSION RESOLUTION NO. 09-9**

**AMENDMENT TO TITLE XV, CHAPTER 159, SECTIONS 159.001, 159.034 & 159.521 -  
159.523, ENTITLED TATTOO SHOPS (ADMIN FILE# 301.3(s))**

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**Section 1.** The City of Auburn Planning Commission held a public hearing at its regular meeting of June 16, 2009, to consider a recommendation to the City Council that would amend the Auburn Zoning Ordinance relating to tattoo shops. The Tattoo Shop Ordinance would amend The City of Auburn Municipal Code by establishing standards and criteria for the establishment of tattoo shops.

**Section 2.** The City of Auburn Planning Commission has considered all of the evidence submitted into the administrative record which includes, but is not limited to:

1. Agenda report prepared by the Community Development Department for the June 16, 2009, meeting.
2. The draft Tattoo Parlor Ordinance.
3. Staff presentation at the public hearing held on June 16, 2009.
4. Public comments, both written and oral, received and/or submitted at or prior to the public hearing.
5. All related documents received and/or submitted at or prior to the public hearing.
6. The City of Auburn General Plan, Zoning Ordinance, and all other applicable regulations and codes.

**Section 3.** In view of all of the foregoing evidence, the City of Auburn Planning Commission recommends the following:

1. The Auburn Community Development Department reviewed this project for compliance with the California Environmental Quality Act (CEQA) and found it to be Exempt from the provisions of CEQA per §15061(3) for the adoption of an ordinance regarding tattoo shops.
2. The Tattoo Shop Ordinance is consistent with the General Plan; and,
3. The Tattoo Shop Ordinance is consistent with State law and is the minimum necessary to protect the health, safety and general welfare.

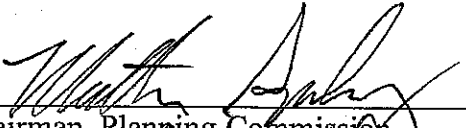
**Section 4.** In view of all of the evidence and based on the foregoing findings and conclusions, the City of Auburn Planning Commission hereby recommends adoption of a Exemption in accordance with §15061(3) of the California Environmental Quality Act (CEQA) and Guidelines.

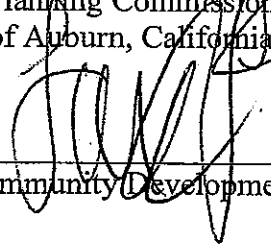
**Section 5.** In view of all of the evidence and based on the foregoing findings and conclusions, the City of Auburn Planning Commission hereby recommends that the City Council approve the Tattoo Shop Ordinance.

**Section 6.** In view of all the evidence and based on the foregoing findings and conclusions, the City of Auburn Planning Commission, upon motion by Commissioner Snyder and seconded by Commissioner Spokely hereby recommends adoption of the Exemption and recommends that the City Council approve the Tattoo Shop Ordinance, and carried by the following vote:

**AYES:** Snyder, Spokely, Vitas  
**NOES:**  
**ABSENT:** Young, Worthington  
**ABSTAIN:**

**PASSED AND RECOMMENDED** this 16th day of June, 2009.

  
\_\_\_\_\_  
Chairman, Planning Commission  
of the City of Auburn, California

**ATTEST:**   
\_\_\_\_\_  
Community Development Department

# EXHIBIT



ORDINANCE 09-\_\_\_\_  
TATTOO SHOPS

Section One: Sections 159.001, 159.034 & 159.521 – 159.523 *et seq* of Chapter 159 of Title XV of the City of Auburn Municipal Code is hereby amended to read as follows:

§ 159.001. DEFINITIONS.

In addition to the other definitions used in this title, the following words and phrases shall have the following meanings when used in this chapter unless the context clearly indicates or requires a different meaning:

(a) "DEPARTMENT" shall mean the Community Development Department.

(b) "DIRECTOR" shall mean the Community Development Director.

(c) "TATTOO SERVICES" means the injection of ink or other pigments below the skin using a sharp instrument.

(d) "TATTOO SHOPS" shall mean any business that sells Tattoo Services whether or not it also sells other services and goods.

§159.034 Central Business Zone District (C-2)

(C) The following uses shall be permitted in the Central Business (C-2) District subject to the approval of a use permit:

(13) Tattoo Shops

1 § 159.521 PURPOSE.

2  
3 (A) The City finds that Tattoo Shops have potentially negative secondary  
4 effects on neighboring properties and the public generally, particularly  
5 when several are concentrated in a small area.

6 (B) Special regulation of Tattoo Shops is therefore necessary to prevent such  
7 effects from contributing to the blighting or downgrading of the  
8 surrounding neighborhoods or creating public or private nuisances.

9  
10 (C) The primary purpose of the regulations is to prevent the concentration or  
11 clustering of Tattoo Shops in any one area and to regulate the operation of  
12 Tattoo Shops to prevent negative secondary effects on neighboring  
13 properties and the public generally.

14  
15 § 159.522 USE PERMIT REQUIRED.

16  
17 (A) Notwithstanding any other provision of this code, Tattoo Shops shall be  
18 prohibited in all zone district classifications within the City, except in the  
19 Central Business (C-2) District and Regional Commercial (C-3) District as  
20 provided in this section in which such uses are permitted pursuant to a use  
21 permit.

22  
23 (B) Applications for use permits shall be heard by the Planning Commission as  
24 provided in 159.405 *et seq.*

25 (C) The use permit shall establish those conditions found to be reasonably  
26 necessary to prevent the concentration or clustering of Tattoo Shops in  
27 any one area and to regulate the operation of Tattoo Shops to prevent  
28 negative secondary effects on neighboring properties and the public  
generally.

1 § 159.523 PERFORMANCE STANDARDS.  
2

3 The following performance standards shall apply to a Tattoo Shop:  
4

5 (A) It shall be unlawful to operate a Tattoo Shop within 1,000 feet of any  
6 other Tattoo Shop.  
7

8 (B) It shall be unlawful to operate a Tattoo Shop within 250 feet of any  
9 residential zone.  
10

11 (C) It shall be unlawful to operate a Tattoo Shop within 1,000 feet of any  
12 public or private school, park, playground, church, non-commercial  
13 establishment operated by a bona fide religious organization or any  
14 establishment principally used by minors.  
15

16 (D) Any inspecting officer of the City of Auburn may enter and inspect the  
17 premises from time to time during regular business hours for compliance  
18 with applicable law.  
19

20 (E) Any inspecting officer of Placer County's Health Department may enter and  
21 inspect the premises from time to time during regular business hours for  
22 compliance with County enforced health requirements.  
23

24 (F) Use permits may include conditions limiting the permissible hours of  
25 operation of Tattoo Shops.  
26

27 (G) No Tattoo Shop shall conduct Tattoo Services on any person under  
28 eighteen (18) years of age, unless it is performed in the presence of a  
parent or legal guardian, or accompanied by a notarized authorization  
from that same parent or legal guardian.

1 (H) The permittee shall maintain a file on-site of all notarized minor consent  
2 forms, and submit to the City of Auburn Police Department a copy of such  
3 form within ten (10) days of receipt.

4  
5 (I) No Tattoo Shop shall allow any non-employee to provide Tattoo Services  
6 for compensation in or via the Tattoo Shop unless the person providing  
7 those Tattoo Services has a City of Auburn business license.

8  
9 (J) No Tattoo Shop shall allow any person that is required to register under  
10 California Penal Code 290 to provide Tattoo Services in or via the Tattoo  
11 Shop on the following areas of the human body:

12 (1) Genitals or the pubic region;

13 (2) Buttocks;

14 (3) Female breasts below a point immediately above the top of the areola.

15 Section Two: This Ordinance shall take effect thirty days following its  
16 adoption as provided by Government Code Section 36937.

17  
18 Section Three: The City Clerk shall certify to the passage and adoption  
19 of this Ordinance and shall give notice of its adoption as required by law.  
20 Pursuant to Government Code Section 36933, a summary of this Ordinance  
21 may be published and posted in lieu of publication and posting of the entire  
22 text.

23  
24 Section Four: If any part of this Ordinance is held to be invalid, such  
25 invalidity shall not affect any other provision which reasonably can be given  
26 effect without regard to the invalid provision.

27  
28 Section Five: To the extent the provisions of the Auburn Municipal  
Code as amended by this Ordinance are substantially the same as the

DATED: July 27, 2009

ATTEST:

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify that the foregoing ordinance was duly passed at a regular meeting of the City Council of the City of Auburn held on the 27<sup>th</sup> day of July 2009 by the following vote on roll call:

Absent: .

-5-